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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,652	10/24/2003	Tsutomu Yamada	Y1929.0098	7638
32172	7590	04/15/2005	EXAMINER	
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP 1177 AVENUE OF THE AMERICAS (6TH AVENUE) 41 ST FL. NEW YORK, NY 10036-2714			PHAM, TUAN	
			ART UNIT	PAPER NUMBER
			2643	

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/691,652	YAMADA, TSUTOMU
	Examiner	Art Unit
	TUAN A PHAM	2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 24 April 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-11 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-11 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>10/24/03, 4/22/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 10/24/2003 and 04/22/2004 has been considered by Examiner and made of record in the application file.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. **Claim 7 is rejected under 35 U.S.C. 102(e) as being anticipated by Lin et al. (U.S. Patent No.: 6,366,791, hereinafter, "Lin").**

Regarding claim 7, Lin teaches a ring tone melody storing server for storing data of a ring tone melody (see figure 2, database 70 store the music score 55 associated with ringing tone pattern, col.3, ln.58-67, col.4, ln.1-55) downloaded from a ring tone melody distribution server through a network and transmitting the data to the mobile phone upon reception of a transmission request for the data of the ring tone melody from the mobile phone through a mobile phone line (see figure 2, Web server 40, music score 55, col.3, ln.58-67, col.4, ln.1-55).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-6 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al. (U.S. Patent No.: 6,366,791, hereinafter, "Lin") in view of Muraki (Pub. No.: US 2003/0003968).**

Regarding claim 1, Lin teaches a method of storing data of a ring tone melody downloaded from a ring tone melody distribution server in a mobile phone through a network and reproducing the stored data, comprising the steps of (see figure 2): storing the data of the ring tone melody downloaded from the ring tone melody distribution

server in a ring tone melody storing server by the mobile phone (see figure 2, database 70 store the music score 55 associated with ringing tone pattern, col.3, ln.58-67, col.4, ln.1-55); and connecting the mobile phone to the ring tone melody storing server through a mobile phone line, receiving the data of the ring tone melody which has been downloaded from the ring tone melody distribution server (see figure 2, Web server 40, music score 55, col.3, ln.58-67, col.4, ln.1-55), and causing the mobile phone to reproduce the stored data, in case that when there is necessity for the mobile phone to reproduce the ring tone melody, the necessity includes occurrence of an incoming call (see col.3, ln.9-20).

It should be noticed that Lin fails to teach the temporarily storing the received data in the mobile phone. However, Muraki teaches such features (see col.3, [0031]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Muraki in view Lin in order to play back musical tunes based on the downloaded music data as suggested by Muraki at column 1, [0003].

Regarding claim 2, Lin further teaches the method further comprising the steps of: storing data of a part of a ring tone melody downloaded from the ring tone melody distribution server in the mobile phone; and reproducing data of the part of the ring tone melody until the data of the ring tone melody is completely received from the ring tone melody storing server through a mobile phone line, in case that when there is necessity for the mobile phone to reproduce the ring tone melody, the necessity includes occurrence of an incoming call (see figure 2, col.3, ln.9-67, col.4, ln.1-55).

Regarding claim 3, Lin teaches a system for storing data of a ring tone melody downloaded from a ring tone melody distribution server in a mobile phone through a network and reproducing the stored data, comprising (see figure 2): a ring tone melody storing server for storing the data of the ring tone melody downloaded from the ring tone melody distribution server; and a mobile phone for connecting itself to the ring tone melody storing server through a mobile phone line (see figure 2, database 70 store the music score 55 associated with ringing tone pattern, col.3, ln.58-67, col.4, ln.1-55), receiving the data of the ring tone melody downloaded from the ring tone melody distribution server from the ring tone melody storing server (see figure 2, Web server 40, music score 55, col.3, ln.58-67, col.4, ln.1-55), and reproducing the ring tone melody, in case that when there is necessity for the mobile phone to reproduce the ring tone melody, the necessity includes occurrence of an incoming call (see col.3, ln.9-20).

It should be noticed that Lin fails to teach the storing the data of the ring tone melody in an internal temporary storing means. However, Muraki teaches such features (see col.3, [0031]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Muraki in view Lin in order to play back musical tunes based on the downloaded music data as suggested by Muraki at column 1, [0003].

Regarding claim 4, Muraki further teaches the system wherein the temporary storing means has a storage capacity of data for one ring tone melody (see col.3, [0031]).

Regarding claim 5, Lin further teaches the mobile phone further comprises: means for storing data of a part of the ring tone melody (see figure 2, mobile 20 with memory 13 for storing the music download from the server).

Regarding claim 6, Lin further teaches the mobile phone further comprises: means for storing data of a part of the ring tone melody (see figure 2, mobile 20 with memory 13 for storing the music download from the server).

Regarding claim 8, Lin teaches a mobile phone for connecting itself to a ring tone melody storing server through a mobile phone line, a ring tone melody having been stored in the ring tone melody storing server (see figure 2, database 70 store the music score 55 associated with ringing tone pattern, col.3, ln.58-67, col.4, ln.1-55), receiving from the ring tone melody storing server the data of the ring tone melody downloaded from a ring tone melody distribution server for distributing a ring tone melody through a network (see figure 2, Web server 40, music score 55, col.3, ln.58-67, col.4, ln.1-55), and reproducing the ring tone melody, in case that when there is necessity for the mobile phone to reproduce the ring tone melody, the necessity includes occurrence of an incoming call (see col.3, ln.9-20).

It should be noticed that Lin fails to teach the storing the data of the ring tone melody in an internal temporary storing means. However, Muraki teaches such features (see col.3, [0031]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Muraki in view Lin in order to

play back musical tunes based on the downloaded music data as suggested by Muraki at column 1, [0003].

Regarding claim 9, Muraki further teaches the system wherein the temporary storing means has a storage capacity of data for one ring tone melody (see col.3, [0031]).

Regarding claim 10, Lin further teaches the mobile phone further comprises: means for storing data of a part of the ring tone melody (see figure 2, mobile 20 with memory 13 for storing the music download from the server).

Regarding claim 11, Lin further teaches the mobile phone further comprises: means for storing data of a part of the ring tone melody (see figure 2, mobile 20 with memory 13 for storing the music download from the server).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In order to expedite the prosecution of this application, the applicants are also requested to consider the following references. Although Wood et al. (U.S. Patent No. 6,816,703), Armanto et al. (U.S. Patent No. 6,094,587), Sueyoshi et al. (U.S. Pub. No.: 2002/0049509), and Kikuchi et al. (U.S. Pub No.: 2002/0010740) are not applied into this Office Action; they are also called to Applicants attention. They may be used in future Office Action(s).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tuan A. Pham** whose telephone number is

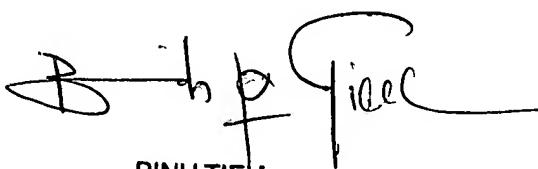
(571) 272-8097. The examiner can normally be reached on Monday through Friday, 8:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz can be reached on (571) 272-7499 and
IF PAPER HAS BEEN MISSED FROM THIS OFFICIAL ACTION PACKAGE, PLEASE CALL Customer Service at (571) 272-2600 FOR THE SUBSTITUTIONS OR COPIES.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have question on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit 2643
April 5, 2005
Examiner

Tuan Pham



BINH TIEU
PRIMARY EXAMINER